

# A CAUSE FOR ACTION

Canadian HIV/AIDS Legal Network Annual Report 2007-2008

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AND EXECUTIVE DIRECTOR
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# WHAT WE STAND FOR

The Canadian HIV/AIDS Legal Network advocates for laws and policies that **strengthen** HIV prevention, care, treatment and support; and **respect, protect** and **fulfill** the human rights of people living with and affected by HIV.

We bring together evidence and law in analyzing the issues important to people and communities affected by HIV. We inform, educate and mobilize people and communities to take action. We challenge governments to fulfill their human rights obligations.

The following pages illustrate our work in action.

# MESSAGE FROM THE PRESIDENT AND EXECUTIVE DIRECTOR

## **IN 2007–2008, AS THE LEGAL NETWORK MARKED ITS 15<sup>TH</sup> ANNIVERSARY, WE WERE REMINDED, TIME AND AGAIN, OF THE CENTRAL IMPORTANCE OF HUMAN RIGHTS IN OVERCOMING THE HIV/AIDS EPIDEMIC IN CANADA AND AROUND THE WORLD.**

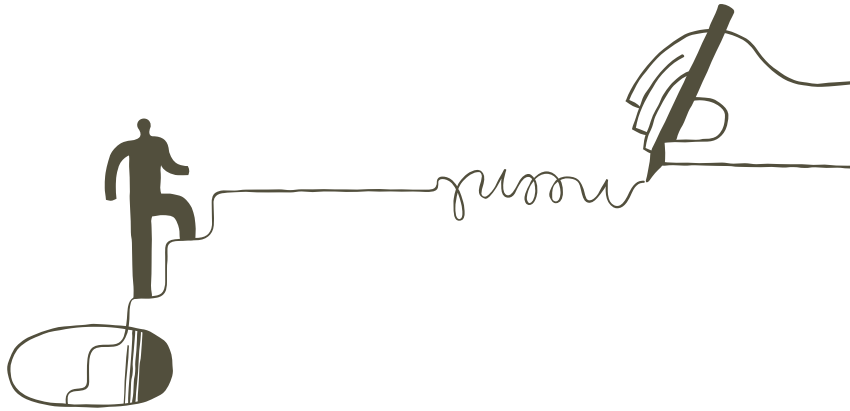
Despite considerable gains and the promise of “universal access” by 2010 to comprehensive prevention programs, care, treatment and support, countries are failing to deliver and people are dying.

In China, organizers were forced to cancel an international meeting on AIDS and human rights, and leading human rights defenders were detained and in some cases imprisoned. Thailand’s government threatened a repeat of its earlier war on drugs that led to hundreds of extra-judicial executions, while Jamaica witnessed further homophobic mob violence. In the face of unsafe drug injection driving its epidemic, Russia continues to criminalize methadone, a key element of HIV prevention and treatment for people who use opioids. Numerous West African countries adopted a “model AIDS law” rife with human rights problems, including the very broad application of criminal sanctions to deal with HIV transmission.

Closer to home, Canada’s government launched a new national strategy to intensify drug law enforcement — an approach that has failed here and elsewhere — while abandoning any commitment to harm reduction. Prison

systems ignored the mounting evidence that safer tattooing and needle exchange programs are needed as part of effective HIV prevention among a highly vulnerable population, despite legal obligations to safeguard the health of those in state custody and to ensure health services equivalent to those in the community. And in late 2007, the federal government announced major cuts in funding to AIDS-service organizations.

Yet human rights had champions, including the Legal Network. In collaboration with the Joint United Nations Programme on HIV/AIDS (UNAIDS), our technical advice and sustained intervention has prompted a process of reviewing problematic laws in West and Central Africa, and has already led to the introduction of significant amendments to Senegal’s draft AIDS bill. Our model law resource on HIV and harmful drug use is serving as a template for national teams identifying possible legislative reforms in six countries of the former Soviet Union. We drafted concrete legislative solutions for Parliament to remedy the limitations of Canada’s law on exporting more affordable, generic medicines to countries in need.



Our core commitment to human rights in the response to HIV was constant through many internal transitions for the Legal Network this year. We bade farewell to executive director Joanne Csete, whose passion, insight and strategic savvy raised the profile of the Legal Network and took our work in new directions and to new regions of the world. Senior policy analysts Glenn Betteridge and Alana Klein took on new professional and personal challenges, although both continue to contribute their expertise to support our work. In their place, we welcomed Alison Symington and Sandra Ka Hon Chu to our research and policy unit. We said goodbye to director of communications, Leon Mar, who significantly scaled up our capacity for effective media and other external relations, while David Cozac joined the communications team to develop a multilingual website for global networking among AIDS and human rights activists. Administrative assistant Taslim Madhani made a career move to tackle employment equity initiatives with the federal government; Jessica Campbell-Thompson is the newest addition to our program support unit.

Finally, the Legal Network's Board thanked Stefan Matiation, David Barr and Anna-Louise Crago for their service, and welcomed David Eby (from Pivot Legal Society in Vancouver) as a new member.

Now more than ever, voices for human rights are needed to shape the world's response to AIDS. As the pages that follow attest, the Legal Network is one of those voices. The ongoing struggle for human rights, central to overcoming the global pandemic, remains our cause for action.

Thomas Kerr  
*President*

Richard Elliott  
*Executive Director*



# DEADLY DISREGARD

**CANADIAN PRISONS LAG BEHIND  
OTHER COUNTRIES', JEOPARDIZE  
LIVES BY REFUSING TO OFFER  
NEEDLE EXCHANGE PROGRAMS  
OR SAFER TATTOOING ROOMS**

**ACTION:** Legal Network publishes commentary in *Canadian Medical Association Journal* accusing Canadian prisons of ignoring evidence-based HIV prevention measures and committing indefensible neglect, not only of prisoners but of public health — news release and broad media coverage hammer home the point; working with PASAN, Legal Network releases *Hard Time*, major report on insufficient state of prevention programming for prisoners in Canada; Legal Network prepares report outlining legal obligations to ensure prisoners' access to HIV and HCV prevention measures

# OUR WORK

**WE BRING EXPERT LEGAL ANALYSIS AND HUMAN RIGHTS PRINCIPLES TO BEAR IN ADVOCATING FOR EFFECTIVE AND EVIDENCE-BASED RESPONSES TO THE HIV PANDEMIC, IN CANADA AND GLOBALLY. THE FOLLOWING ARE HIGHLIGHTS OF OUR WORK BETWEEN APRIL 1, 2007 AND MARCH 31, 2008.**

## **DRUG POLICY AND HARM REDUCTION**

On both the domestic and international fronts, blinkered ideology and a disregard for evidence demanded a considerable portion of the Legal Network's efforts — and the Legal Network responded with a considerable contribution to the existing research and advocacy on drug policy and harm reduction.

In **Canada**, in October 2007 the Prime Minister — flanked by the ministers of Health and Public Safety — unveiled the federal government's new **National Anti-Drug Strategy**, which threatens to replicate the harms of a U.S.-style "war on drugs". New funding was announced for law enforcement, prevention and treatment programs — three of the four so-called "pillars" common in many drug strategies. Support for the fourth pillar of harm reduction — including needle exchanges, methadone treatment and supervised injection sites — was conspicuously absent. The Legal Network spoke out with a news release accusing the government of playing politics with people's lives. Compounding injury, the following month the federal Justice Minister tabled legislation in Parliament that would

impose **mandatory minimum sentences for certain drug offences**. Reacting promptly once again, the Legal Network issued a news release and backgrounder highlighting the disastrous results of mandatory-sentencing policies in the U.S., including higher incarceration rates of non-violent drug users, leading to higher infection rates of blood-borne diseases like HIV and hepatitis C (HCV).

In addition, the fate of Vancouver's **supervised injection site**, hangs in the balance. Insite was created in 2003 under an initial three-year permit that exempts the facility from certain laws criminalizing drugs. However, under pressure, the federal government has twice granted only temporary extensions for Insite. Meanwhile, it has declared a nationwide moratorium on granting exemptions for any other facilities, claiming that further research is required — despite the publication of some two dozen peer-reviewed studies in the world's leading medical journals on the benefits of Insite to both individual users and the surrounding community. The Legal Network and other health advocates have repeatedly criticized this prevarication. The most recent

extension expires in June 2008 and, unless the exemption is renewed, Insite will be forced either to close or expose both users and staff to the threat of criminal prosecution. Denying an exemption would be to defy not only the extensive body of research but also the conclusions of the government's own hand-picked advisory committee that confirmed the public health and harm reduction value of Insite — findings quietly released by the government on a late Friday afternoon in April 2008 with scant fanfare.

Ottawa was the scene of another harm reduction challenge in July 2007, although not on Parliament Hill. Ottawa City Council's decision to end the distribution of **safer crack use kits** by the city's public health department drew fire from health and human rights activists in Ottawa and across the country. In the lead-up to the council debate, the Legal Network submitted a letter to all city councillors rebutting the police chief's misleading declarations that such a program was illegal. Following the decision, the Legal Network intervened with a letter to the Mayor of Ottawa, a news release calling the decision "irresponsible" and "short-sighted", and a letter to the editor in the *Ottawa Citizen* calling the vote "a step backward for public health and human rights." Thanks to the persistence of civil society, the programme was reinstated in late 2007 with community support and provincial funding.

The Legal Network reinforced the existing research on drug policy by publishing a trio of reports on **barriers to harm reduction in Canada** — examining obstacles to needle and syringe programmes, the health and human rights concerns raised by prohibiting assisted injection in supervised injection sites, and the impact of policing practices on access to health services, respectively.

Aiming at a broader, international audience, the Legal Network released ***Dependent on Rights***, a ground-breaking report applying human rights principles to treatment for drug addiction and providing a basis for developing international practice standards in addressing this key issue. Given the major role of injection drug use in driving the HIV epidemic in countries of the former Soviet Union, as well as the prevalence of human rights abuses in approaches to addiction "treatment", the preparation of a Russian-language version of the report provides a significant resource for health and human rights advocates in the region.

Also on the international stage — but with great domestic relevance — the Legal Network spoke out against the UN's **International Narcotics Control Board (INCB)**, which reserved special criticism in its latest annual report for Insite and the safer crack kit programmes of several Canadian cities. In a March 2008 news release, the Legal Network slammed the INCB for being "out of step with common sense, good science and sound public policy" and for betraying a fundamental misunderstanding of the law. (The INCB claims that supervised injection facilities breach UN drug conventions, but this ignores the conclusions of the UN's own legal advisors.) The Legal Network also contributed to a report by the International Drug Policy Consortium responding to and questioning the INCB's disregard for human rights considerations.

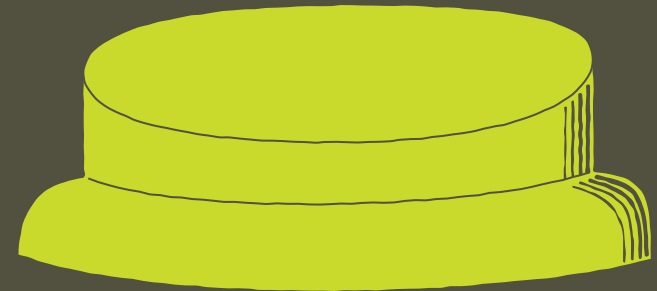
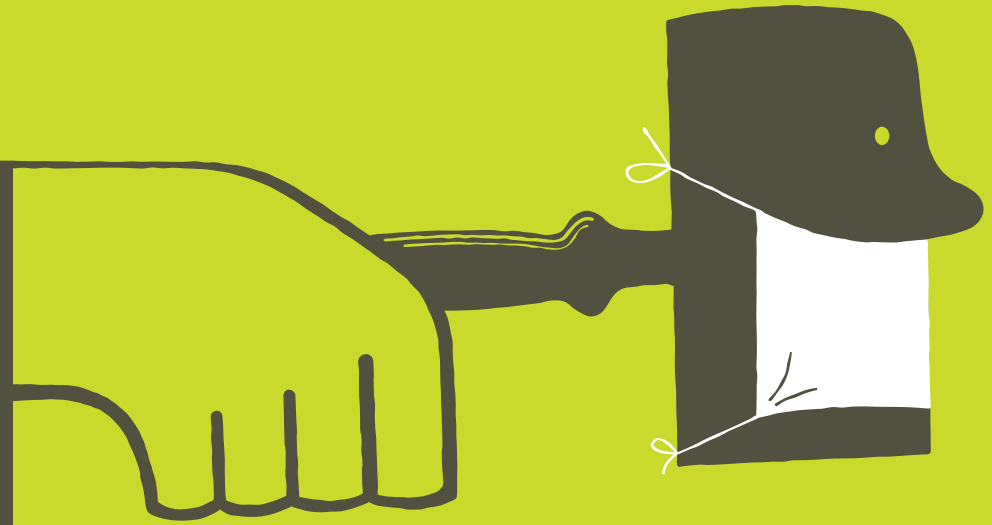
In various countries of the former Soviet Union, the Legal Network was just as active in promoting a human rights approach to drug policy and harm reduction. With the support of the Open Society Institute's International Harm Reduction Development Program, the Legal Network worked to build the capacity of advocates, service-providers, policy-makers and legal experts in the region in order to



# BAD JUDGEMENT

ONTARIO JUDGE IN SEXUAL ASSAULT  
TRIAL ORDERS COMPLAINANT LIVING  
WITH HIV AND HCV TO BE MASKED  
OR TESTIFY FROM ANOTHER ROOM

**ACTION:** Legal Network with member organization HALCO lodges formal complaint with Ontario Judicial Council, calling for appropriate investigation into judge's conduct; Legal Network speaks out in 6 TV and radio interviews, as well as over 15 print stories; Legal Network and HALCO file request with National Judicial Institute to explore training on HIV and human rights for judges



establish drug law and policy that reflect human rights and support harm reduction services. In **Russia**, the Legal Network collaborated with the Russian Harm Reduction Network, delivering trainings on law and human rights and supporting its “overdose prevention” project with technical legal analysis. The Legal Network also worked with the Moscow-based Transatlantic Partners Against AIDS, providing them with legal expertise on the right to health, as well as human rights-based analysis of compulsory drug addiction treatment for adolescents.

Elsewhere in the region, the Legal Network shared its expertise with activists in **Georgia**, preparing an analysis of drug legislation in the U.S., the U.K. and European Union countries to inform their discussions with members of Georgia’s Parliament revising the country’s drug legislation. The Legal Network also conducted professional-exchange and skills-building meetings with Alternative Georgia and the Georgian Harm Reduction Network, including presenting at the Georgian national harm reduction conference, to discuss effective legislative models for addressing HIV and drugs based on human rights and sound public health practice.

Finally, the Legal Network is contributing to an ongoing initiative of the United Nations Office on Drugs and Crime (UNODC) aimed at improving HIV prevention and care for vulnerable populations in five **Central Asian republics and Azerbaijan**. The Legal Network’s participation includes the assessment and analysis of legislation, norms and policies in each of these countries, done in cooperation with a national assessment team, including parliamentarians, other government officials and representatives from law enforcement. The Legal Network developed an extensive country-level assessment tool and conducted

a week-long training session in Almaty, Kazakhstan for the teams, using its 2006 *Model Law on Drug Use and HIV/AIDS* as a basis for discussion. The project’s ultimate goal is to create a favourable policy environment in the region for scaling up HIV prevention and care for prisoners and people who inject drugs. The Legal Network is providing input to the national assessments and preparing a final synthesis report that will include recommended amendments to national laws and policies.

*For more information, please visit [www.aidslaw.ca/drugpolicy](http://www.aidslaw.ca/drugpolicy).*

## **PRISONS**

Denying effective HIV prevention and care to prisoners is to violate their right to health recognized in the *International Covenant on Economic, Social and Cultural Rights*. Since its beginnings, the Legal Network has made advocating for evidence-based, human rights-based responses to HIV in prisons a key element of its work.

In 2007, the Legal Network worked with the Prisoners’ HIV/AIDS Support Action Network (PASAN) to complete an extensive national research project aimed at strengthening HIV and HCV prevention, care, treatment and support in prisons. The jointly released report — **Hard Time** — outlines the public health and human rights case for such programs, including harm reduction measures, in Canadian prison systems. By incorporating a comprehensive review of existing policies in prison systems across Canada and highlighting examples of good or promising programs already in place, the report equips governments, community organizations, prison staff and prisoners to participate in formulating policy and implementing programs that support the health of prisoners and ultimately the communities into which they will return.

The Legal Network was invited by the *Canadian Medical Association Journal* (CMAJ) to prepare a commentary published alongside two new studies on the prevalence of HIV, HCV and risk factors among prisoners in Ontario and Quebec. Highlighting the extensive evidence, as well as governments' legal obligations to the health and human rights of prisoners in their custody, the commentary made an urgent plea to reduce the risk of disease transmission in Canadian prisons by introducing needle exchange programs and reopening the pilot safer tattooing rooms cancelled just months before by the federal Public Safety Minister. To publicize the issue, the Legal Network issued a news release timed with the publication of the CMAJ commentary, attracting significant attention in both print and broadcast media.

In December 2007, the Correctional Services Canada Review Panel released a report entitled *A Roadmap to Strengthening Public Safety*, containing recommendations that did not reflect the best available evidence or human rights principles. In response, the Legal Network made a submission to the federal Public Safety Minister expressing concerns over the Panel's report. In particular, the Legal Network opposed the Panel's recommendation to amend federal law to require compulsory HIV testing of prisoners upon incarceration and following occupational exposures by prison staff to bodily fluids. Citing the extremely low risk levels and proven ineffectiveness of such forced testing, the Legal Network's submission highlighted the gross violations to privacy and bodily integrity that it would entail. The submission also criticized the Panel's complete failure to recommend practical, proven interventions for improving public safety by reducing the spread of disease in correctional institutions.

Beyond Canada's borders, the Legal Network took the lead in organizing a highly successful **international meeting** on HIV and HCV in prisons, held in conjunction with the 18<sup>th</sup> International Harm Reduction Conference in Warsaw in May 2007 and attended by close to 150 participants. In **Ukraine**, the Legal Network made the case for the health and human rights of prisoners with a two-day workshop on HIV and HCV in prisons, attended by prison and government officials and members of civil society. Previously, the Legal Network brokered an agreement with the government correctional department to establish two pilot needle and syringe programs in prisons — however, making these a reality in the face of political inaction continues to be a focus of advocacy efforts. In **Georgia**, the Legal Network led an assessment of the situation regarding HIV, HCV and drug use in prisons, followed by meetings with prison officials, representatives from the ministries of health and justice, non-governmental associations and international agencies. Key resources have been translated into Georgian and efforts to engage key decision-makers continue.

*For more information, please visit [www.aidslaw.ca/prisons](http://www.aidslaw.ca/prisons).*

## **WOMEN'S RIGHTS**

In many parts of the world, women are made vulnerable to HIV by gender inequities created or exacerbated by customary or statutory laws. Legal reform to protect and realize women's rights, while not necessarily sufficient, is necessary in order to respond effectively to the pandemic. However, for all the rhetorical commitment to women's equality and empowerment, the practicalities of reforming law on these fronts require a level of specificity for which little research exists.

**COMPLETE  
DENIAL**

## **CANADIAN GOVERNMENT SHUNS SCIENCE, RATCHETS UP RHETORIC IN NEW “NATIONAL ANTI-DRUG STRATEGY”**

**ACTION:** Legal Network slams federal government’s ideological resistance to Insite and other proven harm reduction measures, maintains steady barrage of news releases and media commentary, supports litigation efforts to keep Insite open; decries damaging U.S.-style legislation with mandatory minimum sentences for drug offences; joins local advocates to resist City of Ottawa’s irresponsible short-sightedness in cancelling safer crack use initiative, prepares legal analysis rebutting misleading police claims that such programs are illegal; program reinstated with provincial funding and public support



**"THE LEGAL NETWORK IS — AND HAS ALWAYS BEEN — AN EXCELLENT ALLY. IT MAKES A LOT OF US FEEL SAFER TO KNOW THAT."**

—JENN CLAMEN, MOBILIZATION AND COMMUNICATIONS COORDINATOR, STELLA, MONTRÉAL

To help fill this gap, the Legal Network refined its work on the development of **draft legislation on women's rights**. The resource, to be launched in 2008, will serve as a guidebook for countries wishing to craft rights-based legislation in four key areas of law — rape and sexual assault; domestic violence; property law, including women's inheritance rights; and family law. Through strategic partnerships with grassroots civil society activists in sub-Saharan Africa and by adapting the draft legislation resource as necessary for specific jurisdictions, the Legal Network will contribute to concrete law reform efforts aimed at empowering women and reducing their vulnerability to HIV and human rights violations that fuel the pandemic among women.

The Legal Network convened two consultative meetings in Johannesburg, South Africa, with regional experts from a dozen African jurisdictions and international partners such as UNAIDS — both consultations were invaluable opportunities to analyze the draft legislation carefully and strengthen it before publication. The Legal Network also delivered a presentation on the upcoming resource at a technical consultation of the UN's Food and Agricultural Organization, focusing on issues of gender, property rights and livelihoods in the era of HIV/AIDS.

Even before its publication, this material is being used to assist country-level law reform to advance women's rights. The Legal Network is collaborating with the Botswana Network of Ethics, Law and HIV/AIDS (BONELA) on specific activities aimed at reforming a bill on domestic violence that is before the Parliament of **Botswana**. Working together, BONELA and the Legal Network have circulated to parliamentarians a human rights analysis of the bill, with proposed amendments to make it more effective, setting the stage for ongoing

engagement in the months ahead.

*For more information, please visit [www.aidslaw.ca/women](http://www.aidslaw.ca/women).*

## **SEX WORK**

Sex workers' human rights, including their right to earn a livelihood of their choosing — and to enjoy workplace safety while doing so — are routinely violated by governments and law enforcement authorities the world over.

In April 2007, UNAIDS released a draft *Guidance Note: HIV and Sex Work* that raised concern in many quarters for its failure to discuss the **human rights of sex workers** or offer practical measures to ensure their universal access to comprehensive HIV prevention — implicitly rejecting UNAIDS' earlier emphasis on improving the situation of sex workers by empowering them to take control of their work conditions. The Legal Network prepared a detailed commentary — endorsed by 49 HIV/AIDS and sex work organizations from around the world — highlighting the Guidance Note's inconsistency with previous UN declarations on the subject. The commentary also provided an in-depth analysis of the ways in which the Guidance Note could be counter-productive in international and country-level efforts to protect and promote sex workers' rights, including its misguided focus on reducing demand for sex work as a strategy for HIV prevention. As an alternative, the Legal Network's brief offered an overview of what rights-based approaches to addressing HIV risk for sex workers should look like. Ultimately, in part as a result of interventions by a global network of sex workers' rights advocates, UNAIDS' governing body, the Programme Coordinating Board, decided to withdraw the draft Guidance Note as a public document and classify it as "internal." Concerns remain, however, that the ideas proposed in the

document will continue to influence UNAIDS' own policy and circulate at country level, further complicating efforts to protect and promote sex workers' human rights through changes in domestic laws, policies and programs.

*For more information, please visit [www.aidslaw.ca/sexwork](http://www.aidslaw.ca/sexwork).*

### **GLOBAL TREATMENT ACCESS**

For want of a law that works, lives are being lost.

The Legal Network persisted in its efforts to cut through the red tape choking **Canada's Access to Medicines Regime** — the 2004 law intended to allow generic drug companies in Canada to export lower-cost versions of brand-name drugs to developing countries. In January 2007, the Legal Network submitted a technical brief to the federal government, as part of its review mandated by the original legislation. The Legal Network also appeared in April 2007 before the House of Commons Standing Committee on Industry, Science and Technology to present its set of 13 detailed recommendations on how finally to make the legislation work.

The day of its appearance before the Committee, the Legal Network hosted a press conference on Parliament Hill — in collaboration with Médecins Sans Frontières — to make the case for reforms to the Regime and explain how these could be realized. The same week, in collaboration with the North-South Institute (NSI), the Legal Network co-hosted an expert consultation that brought together more than 60 participants from around the world to discuss intellectual property rules and access to affordable medicines for millions of people in developing countries. Participants included medicine purchasers and health activists from various developing countries, representatives of Canadian generics manufacturers, and international agencies such as the World Trade Organization (WTO)

and the Global Fund to fight AIDS, Tuberculosis, and Malaria, as well as leading policy experts in this field and representatives from various Canadian government departments. The Legal Network and NSI shared key conclusions from the expert consultation, including support for various reforms to the Regime, in a further submission to the federal ministers of Industry and Health.

In mid-December 2007, hours before Parliament rose for an extended holiday break, the government finally tabled its long-overdue report on the outcomes of its review of the Regime. Sadly, despite the advice of experts and the experience of three years without any medicines exported, the government concluded that it was premature to consider amendments, proposing instead to continue its efforts to distribute information about the Regime to developing countries. Despite the obstructive timing of the report's release, the Legal Network was able to contact key journalists and ensure that the government's refusal to act received some media coverage.

Through all of this, there came news of a breakthrough: in July 2007, **Rwanda** notified the WTO that it was considering importing over the next two years more than 15 million tablets of a generic AIDS drug from Canadian manufacturer Apotex. This was a critical step in moving ahead with using the Regime. In September 2007, the Regime was used to grant Apotex's request for a compulsory licence, the world's first under the mechanism hammered out by WTO member countries four years before. Finally, at time of press in early May 2008, further progress was announced: following a competitive tendering process, Apotex was awarded a contract by the government of Rwanda and was expected to export its first shipment of medicines before the end of the year.

# LEGISLATION CONTAGION

**DANGEROUS “MODEL” LAW  
ON HIV SPREADS THROUGH WEST AND  
CENTRAL AFRICA, INFECTS NATIONAL  
HIV LAWS OF SEVERAL COUNTRIES IN  
REGION WITH POTENTIAL FOR HUMAN  
RIGHTS VIOLATIONS**

**ACTION:** Legal Network prepares human-rights analysis of flawed model law for UNAIDS; educates, mobilizes regional and international civil society; prepares concrete amendments and educates region’s parliamentarians; successfully pressures authors of original model law to agree to revise offending articles



Despite this single success, the Regime needs reform. The delay and effort required by a generics manufacturer, as well as national and even international civil society to get to this stage clearly indicate that the Regime — and the underlying WTO mechanism it embodies — do not provide the simple, user-friendly solution for sustained access to affordable medicines that developing countries need. Given the lack of willingness on the part of the current minority federal government to bring forward amendments, the Legal Network began meeting with parliamentarians to discuss the possibility of bringing forward legislation from opposition benches.

*For more information, please visit [www.aidslaw.ca/treatment](http://www.aidslaw.ca/treatment).*

## **HIV TESTING**

In addition to releasing an updated series of 12 info sheets canvassing a broad range of HIV testing issues in Canada, the Legal Network published ***Prevention and Protection***. Informed by the best available evidence about testing experiences, human rights principles and the discussions at a national workshop hosted by the Legal Network, this report examines testing developments in Canada and the concerns raised by them, with a particular focus on the human rights implications of the anticipated introduction of a rapid HIV test kit as well as some jurisdictions' policies of routine, "opt-out" testing of pregnant women that heighten the risk of testing without affirmative, informed consent.

Still very much on the Legal Network's agenda was the gradual creep of **forced testing** laws. Since 2001, four Canadian provinces (Ontario, Nova Scotia, Alberta and Saskatchewan) have passed laws under which a person can be tested for HIV against his or her will — and test results be disclosed to someone else — in cases of occupational exposure, or as a result

of an alleged crime. As of March 2008, similar legislation was also anticipated in a fifth province, Manitoba, and the Legal Network yet again prepared to be one of the few voices speaking out against such laws.

Given the trend, the Legal Network published two key documents on the issue of forced testing — a Q&A addressing questions frequently asked about such laws, as well as a booklet entitled *Undue Force*, presenting an overview of each provincial law and a commentary on why such measures are unjustified. Coercive testing violates the rights of people being tested — specifically the rights to bodily integrity and to privacy — and outweighs the limited benefits to the person claiming to have been exposed to what is, in almost all cases, an exceedingly small risk.

*For more information, please visit [www.aidslaw.ca/testing](http://www.aidslaw.ca/testing).*

## **CRIMINAL LAW**

Jurisdictions around the world, including a growing number in Africa, succumbed to a disturbing trend in statutes and prosecutions **criminalizing HIV transmission**. At the invitation of the UNAIDS Secretariat and the United Nations Development Programme (UNDP), the Legal Network contributed as expert resource at a three-day international consultation on criminalization in Geneva in late 2007. Participants — including parliamentarians, judges, criminal law experts and people living with HIV, as well as representatives from civil society and UN agencies — debated the boundaries of appropriate application of criminal laws to HIV transmission and exposure, from the perspective of both public health and human rights. The Legal Network is preparing a background report for UNAIDS to provide detailed analysis of the arguments against overly broad use of the criminal law,



**"IT IS ALWAYS GREAT TO HAVE A REPRESENTATIVE OF THE CANADIAN HIV/AIDS LEGAL NETWORK AT A MEETING ON HUMAN RIGHTS, LAW AND HIV. YOU CAN COUNT ON THEM TO BE EXTREMELY ARTICULATE, SUBSTANTIVE, PASSIONATE, CONSTRUCTIVE AND EFFECTIVE IN MOVING THE AGENDA TOWARDS THE PROTECTION OF HUMAN RIGHTS IN THE RESPONSE TO HIV."**

—SUSAN TIMBERLAKE, SENIOR HUMAN RIGHTS AND LAW ADVISER, UNAIDS SECRETARIAT

as well as advising UNAIDS as it develops a policy brief. In related work, the Legal Network's human rights analysis of the HIV laws of seven countries in West Africa addressed numerous articles pertaining to criminalization (see "Model Law", below).

Domestically, HIV-related criminal **cases in Canadian courts** showed little sign of abating and the Legal Network responded to a growing demand for information from frontline organizations and journalists alike. Legal Network staff and consultants delivered presentations across the country — from a conference at University of British Columbia's Faculty of Law, to a World AIDS Day forum for more than 200 people living with HIV from across Quebec (hosted in conjunction with the annual meeting of the provincial AIDS coalition COCQ-Sida), to workshops for participants at an Ontario-wide Gay Men's Health Summit.

The Legal Network has for many years recognized the need for better evidence about the impact of such criminal prosecutions on people living with HIV and on public health, so as to equip community advocates and inform policy-makers and judges. Therefore, this year the Legal Network collaborated with researchers from the Universities of Windsor and Ottawa in developing a three-year research study, now being funded by the Ontario HIV Treatment Network (OHTN), to investigate just these questions.

*For more information, please visit [www.aidslaw.ca/criminallaw](http://www.aidslaw.ca/criminallaw).*

## **"MODEL LAW"**

The Legal Network followed up its work in West and Central Africa to counteract the spread of **harmful HIV laws** based on the problematic N'djamena "model law" — drafted in 2004 by AWARE-HIV/AIDS (Action for the West Africa Region).

Model law is a fairly common tool for law reform, involving development of a legislative "template" which individual jurisdictions are free to modify and adapt. If model laws are informed by thorough human rights considerations, they can offer the advantage of sharing "best practices" and avoiding "re-inventing the wheel" in a number of jurisdictions. A flawed model law, however, can propagate virus-like throughout an entire region.

The N'djamena "model law" is one such example. Purporting to prioritize human rights, the model law in fact runs afoul of international human rights law and the *International Guidelines on HIV/AIDS and Human Rights* in a number of its articles. It also makes some serious omissions, including silence about the rights of either women or prisoners and, through a lack of specificity, paves the way for broad criminalization of HIV exposure. Worse still, at least seven countries in West and Central Africa have already used it as the basis of their national HIV laws, while at least six others are in the process of developing laws using the same model.

Recognizing the need for action, the UNAIDS Regional Office for West Africa commissioned the Legal Network to prepare a human rights analysis of the model law as well as the seven national laws that had been adopted at the time. The Legal Network presented its conclusions to a meeting of over 50 regional parliamentarians and civil society representatives in Dakar, Senegal in July 2007. Other Legal Network resources designed to increase awareness and provide technical assistance included a research paper analyzing human rights concerns raised by the new laws and a trilingual cover story in the December 2007 issue of the *HIV/AIDS Policy & Law Review*.

**"AS ALWAYS, I REALLY ENJOYED READING THE LATEST ISSUE OF THE HIV/AIDS POLICY & LAW REVIEW. IT EXPANDED MY MIND AND INFORMED AND EDUCATED ME ON A VARIETY OF ISSUES WHICH WILL CERTAINLY ENHANCE MY WORK.**

**—GAIL LINKLATER, SUPPORT SERVICES COORDINATOR, AIDS THUNDER BAY**

The Legal Network's advocacy around the N'djamena model law is steadily yielding results. The Senegalese drafting team amended their HIV bill, based on comments proposed by the Legal Network and UNAIDS; an alternative language text prepared by the Legal Network is being used by UNAIDS to push for similar interventions in the draft bills from other countries in the region; and AWARE-HIV/AIDS, responding to pressure from advocates equipped with Legal Network research, has agreed to a process of revision of its less-than-model model law.

### **HIV/AIDS POLICY & LAW REVIEW**

33 issues. 14 years. One unique resource.

The Legal Network's flagship journal, the *HIV/AIDS Policy & Law Review*, continued providing analysis and summaries of current developments in HIV/AIDS-related policy and promoting the exchange of information, ideas and experiences, not just in Canada but internationally. The *Review* is the only publication in the world with this particular mandate, and the only such bilingual (English/French) resource for front-line workers, advocates and policy-makers.

The publication of three new issues included a double issue in December 2007 — the *Review's* first-ever trilingual release and a significant step forward in extending its reach to Russian-speaking countries — and featured human rights examinations of topics ranging from drug treatment courts in Canada to the scale-up of male circumcision as a preventive measure.

Produced since 2006 with the partial collaboration of the American Bar Association, the *Review* began an additional collaboration with the Law and Health Initiative (LAHI) of the Open Society Institute — commemorated by a series of articles on LAHI-piloted interventions

in Africa and former Soviet Union countries.

*For more information, please visit [www.aidslaw.ca/review](http://www.aidslaw.ca/review).*

## **OTHER HIGHLIGHTS**

### **CARIBBEAN**

In September, the Legal Network co-facilitated a workshop in the Dominican Republic for HIV and human rights advocates from countries in the Caribbean. The three-day meeting was convened by the regional office of the UNDP and the **Caribbean Vulnerable Communities Coalition (CVC)**, a coalition of organizations and individuals working in rights-based HIV prevention, care, treatment and support. The participants, who came from approximately a dozen countries in the region, used case studies on access to HIV/AIDS treatment and on the rights of various vulnerable populations, to spark discussions on advocacy strategies at both regional and national levels.

### **WEB RESOURCE ON HUMAN RIGHTS, THE LAW AND HIV/AIDS**

With funding in place from UNAIDS and UNDP, and building on consultations at an international satellite meeting hosted just before the XVI International AIDS Conference in Toronto in 2006, the Legal Network broke ground on the development of a unique web-based resource that will house the best and most relevant of information concerning HIV-related legal and human rights issues, and connect AIDS and human rights advocates around the world. The multi-lingual resource, which will include features allowing for user contribution of material, is scheduled to launch in mid-2009 and will be led by a full-time on-staff project coordinator and supported by a global steering committee of experts.

## IMMIGRATION AND TRAVEL

Since the beginning of the HIV epidemic, governments and the private sector have implemented travel restrictions with regard to HIV-positive people wishing to enter or remain in a country. Today, over 70 countries have some form of travel restriction discriminating against people living with HIV.

The Legal Network is part of a UNAIDS-organized **international task team** whose objective is to heighten attention to the issue of HIV-related travel restrictions on international and national agendas and move towards their elimination. The Legal Network has contributed expertise based on its involvement in getting Canada to remove unwarranted and unnecessary requirements to disclose HIV status on temporary entry application forms.

Closer to home, the Legal Network is co-investigator on a research project funded by the OHTN to assess the defensibility of criteria used by Citizenship and Immigration Canada in determining the **“medical inadmissibility”** of applicants for permanent residence in Canada. At present, would-be immigrants with HIV, other than refugees or certain family members sponsored by a citizen or permanent resident, are routinely rejected on the expectation that they will place an “excessive demand” on publicly funded health and social services in years to come, while their potential contributions to Canada are disregarded. The research project will subject this policy — and particularly the specific, outdated criteria used to estimate the demand on services — to careful scrutiny in light of current standards of HIV treatment and human rights norms.

## LGBT RIGHTS

An ongoing partnership with ARC International means that the Legal Network is able to maintain a presence advocating at the UN level. A non-governmental organization in Special Consultative Status with the United Nations Economic and Social Council, the Legal Network has accredited a human rights advocate from ARC as one of its representatives, who has been intervening in Geneva at the **Human Rights Council**, the United Nations High Commission on Human Rights and with various state delegations on a range of human rights concerns for people living with HIV and lesbian, gay, bisexual and transgender people. The Legal Network also continued its collaboration with one of the leading AIDS and human rights advocacy organizations in **China**, the Beijing Aizhixing Institute of Health Education and its network of grassroots partner organizations around the country. Funded by the Canadian International Development Agency, through the Canadian Society for International Health and the Interagency Coalition on AIDS and Development, this project is reaching gay men and other men who have sex with men across China with HIV prevention and human rights information.

# ANNUAL GENERAL MEETING

**TORONTO, ONTARIO HOSTED THE JOINT ANNUAL GENERAL MEETINGS AND SKILLS-BUILDING WORKSHOPS OF THE LEGAL NETWORK AND THE CANADIAN WORKING GROUP ON HIV AND REHABILITATION FROM JUNE 10–11. OVER 100 PEOPLE GATHERED FOR THE OPENING CEREMONY, WHICH CULMINATED IN THE PRESENTATION OF THE AWARDS FOR ACTION ON HIV/AIDS AND HUMAN RIGHTS.**

This year, two Canadian recipients were honoured: Ruth Carey and HALCO, the HIV & AIDS Legal Clinic (Ontario). Carey, who served as executive director of HALCO for almost a decade before stepping down in 2007, spoke passionately and personally in her acceptance remarks about the struggle for the human rights of people living with HIV.

“Day after day,” Carey said, “I would watch the bravery and sheer nobility of people living with HIV as they reached out for the help they needed to live better lives. I suspect that I will live my whole life and never experience such a great privilege again.”

Halco’s current executive director, Ryan Peck, was on hand to accept the organization’s award — an acknowledgement of the clinic’s continuing mandate to provide legal services to low-income people living with HIV, and to advocate more broadly for the human rights of people facing the many legal challenges associated with HIV. To this day, it remains the only such legal clinic in Canada.

Members were also treated to a panel discussion on grassroots human rights responses to HIV/AIDS in Canada and a Legal Network skills-building workshop on applying human rights standards to treatment for drug dependence.

*For information on the 2008 AGM, scheduled for June 16–17 in Ottawa, please visit [www.aidslaw.ca/agm](http://www.aidslaw.ca/agm).*

# FACTS & FIGURES

THE FOLLOWING FACTS AND FIGURES PROVIDE A SNAPSHOT OF THE  
LEGAL NETWORK'S ACTIVITIES FROM APRIL 1, 2007 TO MARCH 31, 2008.

125+

APPROXIMATE NUMBER OF PRINT  
ARTICLES IN WHICH LEGAL  
NETWORK STAFF WERE QUOTED

14

NUMBER OF NEWS RELEASES ISSUED BY THE LEGAL NETWORK ON A VARIETY OF HUMAN RIGHTS ISSUES

40+

APPROXIMATE NUMBER OF TELEVISION AND  
RADIO BROADCASTS IN WHICH LEGAL  
NETWORK STAFF WERE SEEN AND HEARD

187

NUMBER OF MEDIA  
REQUESTS RECEIVED BY  
THE LEGAL NETWORK

25

NUMBER OF REPORTS, BOOKLETS, INFO  
SHEETS, BRIEFING PAPERS, Q&A'S,  
JOURNAL ARTICLES, ANNUAL REPORTS,  
JOURNALS AND NEWSLETTERS  
PUBLISHED BY THE LEGAL NETWORK

500+

APPROXIMATE NUMBER OF INFORMATION REQUESTS  
RECEIVED BY E-MAIL, PHONE AND FAX — ABOUT 25  
PERCENT INTERNATIONAL — TO WHICH LEGAL NETWORK  
STAFF RESPONDED

# OUR PEOPLE

## BOARD OF DIRECTORS

### Executive Committee

Thomas Kerr, *President*  
James ("Jim") Burns, *Vice President*  
Darlene Palmer, *Secretary*  
David Olson, *Treasurer*

### Members

William Booth  
Robert Carr  
Anna-Louise Crago  
Le-Ann Dolan  
David Eby  
Rosemary Fayant  
Ryan Peck

## INTERNS AND VOLUNTEERS

Glenn Dodge  
Anne Merminod, McGill University  
Raghuram Natarajan  
Cheryl Robinson, University of Toronto  
Julie Shugarman, University of Ottawa  
Indira Stewart, University of Ottawa  
Madhavi Swamy, University of Toronto

## STAFF

Joanne Csete, *Executive Director* (until August 29, 2007)  
Richard Elliott, *Executive Director* (as of August 30, 2007)

### Policy Unit

Richard Pearshouse, *Director of Research and Policy*  
(as of August 30, 2007)  
Glenn Betteridge, *Senior Policy Analyst*  
(until April 30, 2007)  
Sandra Ka Hon Chu, *Senior Policy Analyst*  
(as of September 24, 2007)  
Alana Klein, *Senior Policy Analyst* (until August 10, 2007)  
Alison Symington, *Senior Policy Analyst*  
(as of September 4, 2007)  
Leah Utyasheva, *Senior Policy Analyst*

### Communications Unit

Leon Mar, *Director of Communications*  
(until February 8, 2008)  
David Cozac, *Project Coordinator* (as of January 2, 2008)  
Vajdon Sohaili, *Communications Specialist*

### Program Support Unit

Terry Gould, *Program Support Coordinator*  
Jessica Campbell-Thompson, *Administrative Assistant*  
(as of June 26, 2007)  
Taslim Madhani, *Administrative Assistant*  
(until June 29, 2007)  
Doriana Schiavi, *Finance Officer*

# THANKS

The generosity of our supporters ensures the success of our programs and projects. We wish to acknowledge the contribution and support of the following institutions and individuals.

## INSTITUTIONS

AIDS Bureau, Ontario Ministry of Health and Long-Term Care  
Association of Universities and Colleges of Canada  
Canadian International Development Agency  
Canadian Society for International Health  
Canadian Working Group on HIV and Rehabilitation  
Centre for Addiction and Mental Health  
Centre for Addictions Research of B.C.  
Ford Foundation  
Hilda Mullen Foundation  
Interagency Coalition on AIDS and Development  
International Affairs Directorate, Health Canada  
International HIV/AIDS Alliance  
Joint United Nations Programme on HIV/AIDS  
Levi Strauss Foundation  
MAC AIDS Fund  
Open Society Institute  
Pro Bono Students Canada  
Public Health Agency of Canada  
Stephen Lewis Foundation  
Tides Foundation  
Toronto Community Foundation  
United Nations Development Programme  
United Nations Office on Drugs and Crime

## INDIVIDUALS

Joan Anderson  
Michael Battista  
Lloyd Becker  
Glenn Betteridge  
Ruth Carey  
Evan Collins  
Pete Collins  
Joanne Csete  
Theodore De Bruyn  
Le-Ann Dolan  
Josée Dussault  
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Shawn Syms  
Mario Trapani  
Anonymous donors

*For more information on how you can support our work, please visit [www.aidslaw.ca/donate](http://www.aidslaw.ca/donate).*

## PUBLICATIONS

2006–2007 Annual Report

A Helping Hand: Legal Issues Related to Assisted Injection at Supervised Injection Facilities

A Human Rights-based Commentary on UNAIDS Guidance Note: HIV and Sex Work (April 2007)

Access to Medicines and Intellectual Property: Report of an International Expert Meeting on Canada's Access to Medicines Regime, Global Developments, and New Strategies for Improving Access (April 19–21, 2007)

“Closed to reason: time for accountability for the International Narcotic Control Board” in *Harm Reduction Journal*, Volume 4, Number 13

“Dangerously Out of Step: The International Narcotics Control Board and HIV/AIDS” in *Global AIDSLink*, Number 105, September–October 2007

“Delivering on the Pledge: Global Access to Medicines, WTO Rules, and Reforming Canada's Law on Compulsory Licensing for Export” in *McGill International Journal of Sustainable Development Law & Policy*, Volume 3, Issue 1

Dependent on Rights: Assessing Treatment of Drug Dependence from a Human Rights Perspective

Do Not Cross: Policing and HIV Risk Faced by People Who Use Drugs

Forced HIV Testing: Questions and Answers

Getting the Regime Right — Brief to the House of Commons Standing Committee on Industry, Science and Technology regarding Canada's Access to Medicines Regime

Hard Time: HIV and Hepatitis C Prevention Programming for Prisoners in Canada

HIV Testing — a series of 12 info sheets

*HIV/AIDS Policy & Law Review*, Volume 12, Numbers 1 and 2/3

*Legal Network News*, Issues 27, 28 and 29

Needle and Syringe Programs and Bleach in Prisons: Reviewing the Evidence

Opioid Substitution Therapy in Prisons: Reviewing the Evidence

Prevention and Protection: Enhancing Both HIV Testing and Human Rights in Canada

Promoting HIV and hepatitis C prevention programming for prisoners in Canada: Strategic directions for action

Recalibrating the Regime: The Need for a Human Rights-Based Approach to International Drug Policy (Co-authored with International Harm Reduction Association, Human Rights Watch, and Beckley Foundation Drug Policy Programme; Publisher: Beckley Foundation)

Sticking Points: Barriers to Access to Needle and Syringe Programs in Canada

Undue Force: An Overview of Provincial Legislation on Forced Testing for HIV

*For more information, please visit*  
[www.aidslaw.ca/publications](http://www.aidslaw.ca/publications).

## NEWS RELEASES

March 14, 2008 — Mandatory Minimum Sentences for Drug Offences Counter-Productive to Public Health and Human Rights

March 4, 2008 — Latest Report from United Nations Drug Control Body Misses the Mark

November 29, 2007 — National AIDS Organizations Call on Ottawa to Guarantee Current Funding for Local AIDS Programs and Services (National Partners news release)

November 20, 2007 — Legal Network President Named National Recipient of Canadian Institutes of Health Research Award

November 20, 2007 — New Anti-Drug Bill Likely to Lead to More Cases of HIV

October 2, 2007 — Insite Extension a Political Manoeuvre Instead of a Public Health Decision

October 1, 2007 — Ottawa Adopting Failed U.S.-Style “War on Drugs”

September 27, 2007 — Civil Society Key to Defeating AIDS in China (joint release with Human Rights Watch)

September 27, 2007 — Canada Misses Opportunity to Show Leadership on HIV/AIDS, TB and Malaria at Global Fund Replenishment in Berlin (Global Treatment Access Group news release)

September 21, 2007 — First-Ever Compulsory Licence Issued Under Canada's Access to Medicines Regime

August 1, 2007 — Canadian HIV/AIDS Legal Network Announces Richard Elliott as Its New Executive Director

July 30, 2007 — CMAJ Commentary Calls for Needle Exchange and Safer Tattooing Programs in Canadian Prisons

July 20, 2007 — Rwanda First to Try Buying Affordable AIDS Drug from Canada Using Access to Medicines Regime

July 11, 2007 — Cancellation of Safe Crack Kits by Ottawa City Council Irresponsible and Short-Sighted

June 10, 2007 — Ontario Legal Aid Clinic and Toronto Human Rights Advocate Win 2007 Awards for Action on HIV/AIDS and Human Rights

April 18, 2007 — Legal Network Releases 13-Point Plan to Parliament to Fix Canada's Access to Medicines Regime

*For more information, please visit*  
[www.aidslaw.ca/media](http://www.aidslaw.ca/media).

## STATEMENT OF FINANCIAL POSITION

As at March 31, 2008

	2008	2007
<b>CURRENT ASSETS</b>		
Cash	\$182,742	\$329,095
Short-term investments	161,335	113,062
Amounts receivable	117,319	82,703
Prepaid expenses	11,810	14,781
	473,206	539,641
Capital assets	3,330	4,662
	\$476,536	\$544,303
<b>LIABILITIES AND NET ASSETS</b>		
Current liabilities		
Accounts payable and accrued liabilities	\$39,141	\$175,123
Deferred grants	355,105	289,481
	394,246	464,604
Invested in capital assets	3,330	4,662
Unrestricted	78,960	75,037
	82,290	79,699
	\$476,536	\$544,303

## STATEMENT OF OPERATIONS

For the year ended March 31, 2008

	2008	2007
<b>REVENUE</b>		
Grants	\$1,417,284	\$1,446,970
Service fees	47,351	37,569
Membership	11,025	14,414
Donations	9,779	10,429
Interest and other	26,683	23,129
	1,512,122	1,532,511
<b>EXPENSES</b>		
Personnel	719,000	774,475
Professional fees	190,092	205,627
Travel	130,754	198,877
Information and publications	57,127	87,024
Communication	58,308	71,933
Rent and maintenance	83,741	61,444
Foreign country activities	215,537	58,440
Office equipment	14,520	18,376
Facilities and equipment	10,067	14,489
Office support and maintenance	8,720	9,862
Other	20,333	24,775
Amortization	1,332	6,089
	1,509,531	1,531,411
<b>EXCESS OF REVENUE OVER EXPENSES FOR THE YEAR</b>	\$2,591	\$1,100